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|-------------------------------|------------------------|---------------------|--|
| <b>Notice of Allowability</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                               | 09/363,728             | KRISHNASWAMY ET AL. |  |
|                               | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                               | Uyen-Chau N. Le        | 2876                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 20 October 2005.
2. ☒ The allowed claim(s) is/are 1-3 and 5-6.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>111805</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                       |
|   | 9. <input type="checkbox"/> Other _____.   |

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**EXAMINER'S AMENDMENT**

***Prelim. Amdt/Amendment***

1. Receipt is acknowledged of the Amendment filed 20 October 2005.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. David L. Weinstein on 18 November 2005 in order to place the instant application in the proper form for an allowance (i.e., to have proper support) by substituting "capable of" with -- for -- in claims 1 and 2; deleting "capable of" in claim 5 and deleting "capable of being" in claim 6.

The application has been amended as follows:

IN THE CLAIMS:

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Re claim 1, lines 6 and 9: Substitute "capable of" with --  
for --.

Re claim 1, line 11: Substitute "a barcode reader" with --  
said barcode reader --.

Re claim 2, lines 8 and 11: Substitute "capable of" with --  
for --.

Re claim 5, line 2: Delete "capable of."

Re claim 6, line 2: Delete "capable of being."

3. The following is an examiner's statement of reasons for  
allowance:

Applicant's arguments, see pages 6-9, filed 20 October  
2005, with respect to claims 1 and 2 have been fully considered  
and are persuasive.

The prior art of records to and all other cited references,  
taken alone or in combination, fails to teach or fairly suggest  
the specific structure or the method of a handheld analyte test  
instrument comprising, among other things, a numeric keypad and  
function buttons for carrying out the functions of selecting  
test or menu modes, editing entries, terminating entries, and  
activating a barcode reader as a substitute for manual numeric  
entry, or a docking station comprises a switch in electrical  
communication with the connector, a first data port in

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electrical communication with the switch and being electrically connectable to a computer, a second data port in electrical communication with the switch and being electrically connectable to a peripheral device, and a control mechanism for controlling the switch to selectively pass the analyte data to the computer via the first data port or to the peripheral device via the second data port as set forth respectively in the claimed combinations.

The prior art of records to Böcker et al discloses an analyte test instrument 3 having a barcode reader for reading a barcode affixed to a test strip 13 and on/off buttons 20, but is silent with respect to a numeric keypad for entering numeric entries and function buttons for selecting test or menu modes, editing entries, terminating entries, and activating the barcode reader. Karkar et al discloses a blood analyzing device 10 comprising a numeric keypad 18 for entering the pH and temperature values, and switching buttons [100, 102, 104] for operating the analyzing process. Karkar et al is silent with respect to a barcode reader and function buttons for selecting test or menu modes, editing entries, terminating entries, and activating the barcode reader. Thus, with no teaching from the prior art, and without the benefit of applicant's teachings, there is no motivation for one of ordinary skill in the art to

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combine/modify the prior art of records in a manner so as to create the claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen-Chau N. Le whose telephone number is 571-272-2397. The examiner can normally be reached on First Monday 5:30AM-1:30PM and Tues-Fri 5:30AM-3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Uyen-Chau N. Le  
Examiner  
Art Unit 2876

November 18, 2005